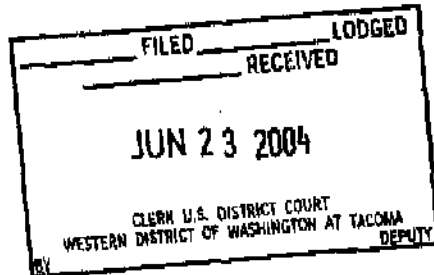




03-CR-00498-PET

JUDGE FRANKLIN D. BURGESS



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

GARY EVANS JACKSON,

Defendant.

NO. CR 03-498 FDB (BJR)

PLEA AGREEMENT

The United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and John J. Lulejian and Susan B. Dohrmann, Assistant United States Attorneys for said District, and the defendant, Gary Evans Jackson, and his attorney, Brian A. Tsuchida, enter into the following Agreement, pursuant to Federal Rules of Criminal Procedure 11(a)(2) and 11(c)(1)(C):

1. The Charges. Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to the following charges contained in the Indictment, that is, Travel in Foreign Commerce and Engaging, and Attempting to Engage, in Illicit Sexual Conduct with Minors, as charged in Counts I through III, in violation of Title 18, United States Code, Sections 2423(c), 2423(f), and 2426(a). By entering this plea of guilty, Defendant hereby waives all objections to the form of the charging document.

Defendant further understands that before entering his plea of guilty,

1 Defendant will be placed under oath. Any statement given by Defendant under oath
2 may be used by the government in a prosecution for perjury or false statement.

3 2. Elements of the Offenses. The elements of the offense of Travel in
4 Foreign Commerce and Engaging, and Attempting to Engage, in Illicit Sexual Conduct
5 with Minors as charged in Counts I through III, in violation of Title 18, United States
6 Code, Section 2423(c), are as follows:

7 First, Defendant travels in foreign commerce; and

8 Second, Defendant engaged in illicit sexual conduct as defined in Title 18,
9 United States Code, Section 2423(f);

10 Third, Defendant engaged in illicit sexual conduct with a minor; and,

11 Fourth, Defendant was a United States citizen at the time of the offense.

12 3. The Penalties. Defendant understands that the statutory penalties for each
13 count of the offense of Travel in Foreign Commerce and Engaging, and Attempting to
14 Engage, in Illicit Sexual Conduct with Minors, as charged in Counts I through III are as
15 follows, as to each count: imprisonment for up to Sixty (60) years, a fine of up to Two
16 Hundred and Fifty Thousand dollars (\$250,000.00), a period of supervision following
17 release from prison of up to Five (5) years, and a One Hundred dollar (\$100.00) penalty
18 assessment. Defendant agrees that the penalty assessment shall be paid at or before the
19 time of sentencing.

20 Defendant understands that in addition to any term of imprisonment and/or
21 fine that is imposed, the Court may order Defendant to pay restitution to any victim of
22 the offense, as required by law. Defendant further understands that a consequence of
23 pleading guilty may include the forfeiture of certain property either as a part of the
24 sentence imposed by the Court, or as a result of civil judicial or administrative process.

25 Defendant agrees that any monetary penalty the Court imposes, including
26 the special assessment, fine, costs or restitution, is due and payable immediately, and
27 further agrees to submit a completed Financial Statement of Debtor form as requested by
28 the United States Attorney's Office.

Defendant understands that supervised release is a period of time following imprisonment during which he will be subject to certain restrictions and requirements. Defendant further understands that if supervised release is imposed and he violates one or more of its conditions, he could be returned to prison for all or part of the term of supervised release that was originally imposed. This could result in Defendant serving a total term of imprisonment greater than the statutory maximum stated above.

4. Rights Waived by Pleading Guilty. Defendant understands that, by pleading guilty, he knowingly and voluntarily waives the following rights:

- a. The right to plead not guilty, and to persist in a plea of not guilty;
- b. The right to a speedy and public trial before a jury of Defendant's peers;
- c. The right to the effective assistance of counsel at trial, including, if Defendant could not afford an attorney, the right to have the Court appoint one for Defendant;
- d. The right to be presumed innocent until guilt has been established at trial, beyond a reasonable doubt;
- e. The right to confront and cross-examine witnesses against Defendant at trial;
- f. The right to compel or subpoena witnesses to appear on Defendant's behalf at trial;
- g. The right to testify or to remain silent at trial, at which trial such silence could not be used against Defendant; and
- h. The right to appeal a finding of guilt or any pretrial rulings, other than his right to pursue his pre-trial motion to dismiss available to him under Federal Rules of Criminal Procedure 12(b)(2) and 12(b)(3) based on constitutional, jurisdictional, and statutory construction grounds only, as set forth below in Paragraph 6.

5. Applicability of Sentencing Guidelines. The parties agree and stipulate

1 that the United States Sentencing Guidelines, promulgated by the
 2 United States Sentencing Commission, are applicable to this case to the following
 3 extent:

4 a. The parties agree and stipulate that USSG § 2A3.1 is applicable to
 5 Counts I through III of the Indictment, and that the applicable sentencing range in this
 6 case is 168 to 210 months' imprisonment. The parties further stipulate that they will
 7 stipulate and jointly recommend to the Court a sentence of 180 months, pursuant to
 8 Federal Rules of Criminal Procedure 11(c)(1)(C).

9 b. Defendant may not withdraw a guilty plea solely because of the
 10 sentence imposed by the Court, unless the Court indicates its intent to sentence
 11 Defendant above the stipulated sentence of 180 months' imprisonment. Defendant
 12 further agrees to waive his right to withdraw his plea for "any reason or no reason,"
 13 before the Court accepts his plea, as permitted by Federal Rule of Criminal Procedure
 14 11(d)(1), and acknowledges that if he does seek to withdraw his plea of guilty he will be
 15 required to make a showing under Federal Rule of Criminal Procedure 11(d)(2) that
 16 either the Court had refused to accept the Plea Agreement, or that there was some other
 17 "fair and just reason for requesting the withdrawal" as required by this Rule.

18 6. Agreement as to Pre-Trial Motions. Defendant reserves the right to
 19 pursue his pre-trial motion to dismiss available to him under Federal Rules of Criminal
 20 Procedure 12(b)(2) and 12(b)(3) based on constitutional, jurisdictional, and statutory
 21 construction grounds only and reserves his right to appeal any adverse rulings on this
 22 motion pursuant to Federal Rule of Criminal Procedure 11(a)(2). Additionally,
 23 Defendant specifically agrees that he will withdraw all other motions, including but not
 24 limited to, motions to suppress evidence and statements and waives his right to file such
 25 motions. Finally, Defendant acknowledges and understands that pursuant to Title 18,
 26 United States Code, Sections 3161(h)(1)(F) and (I), the delay between the filing of
 27 Defendant's pre-trial motion to dismiss and the conclusion of the hearing on, or other
 28 prompt disposition of, such motion, shall be excluded in computing the time within

1 which the trial in this matter must commence. Defendant further agrees that in the event
2 that this matter does proceed to trial and the government needs additional time to
3 prepare for trial in light of the unique circumstances of this case involving the
4 transportation of several essential government witnesses from Cambodia to the United
5 States, Defendant will not oppose a further extension of time for such preparation,
6 pursuant to Title 18, United States Code, Section 3161(h)(8)(B)(iv).

7 7. Statement of Facts. The parties agree on the following facts in support of
8 Defendant's guilty plea and for purposes of calculating the base offense level of the
9 Sentencing Guidelines. Defendant admits he is guilty of the charged offenses.

10 In or about November 2001, Defendant, a United States citizen, traveled from
11 Seattle, Washington, to Bangkok, Thailand, departing from the Seattle-Tacoma
12 International Airport. In or about January 2002, Defendant traveled from Thailand to
13 Phnom Penh, Cambodia.

14 On or about June 27, 2003, John Doe 2, a fourteen or fifteen year old Cambodian
15 boy, met Defendant at an Internet cafe near the riverfront in Phnom Penh, Cambodia.
16 While in the Internet cafe, John Doe 2 tried to sell Defendant newspapers. Defendant
17 eventually asked John Doe 2 if he would sleep with him. Through broken English and
18 gestures, John Doe 2 agreed to go with Defendant for the purposes of having oral sex.
19 When John Doe 2 and Defendant left the Internet cafe, Defendant asked John Doe 2 to
20 select two boys to join them to have oral sex at a guesthouse. John Doe 1, a ten year
21 old Cambodian boy, and John Doe 3, a fourteen or fifteen year old Cambodian boy,
22 agreed to accompany Defendant and John Doe 2 to the guesthouse.

23 Defendant and the three Cambodian boys traveled to the Pyco Guesthouse, also
24 known as the Necta Guesthouse, a well-known guesthouse that catered to foreigners and
25 locals who wanted to engage in sexual activity. When Defendant and the boys arrived at
26 the guesthouse, Defendant rented a room, and a bald man escorted them into a room at
27 the top of the stairwell. After Defendant, John Doe 1, John Doe 2 and John Doe 3
28 entered the room, Defendant, using John Doe 2 as an interpreter, instructed the boys to

1 take off their clothes. After helping John Doe 1 and John Doe 2 take off their clothes,
 2 Defendant told the boys to take a shower with him. Once in the shower, Defendant
 3 touched the boys' penises and used soap to clean their bodies. While in the shower,
 4 Defendant performed oral sex on all three of the boys for approximately ten minutes.

5 After Defendant finished performing oral sex on the boys, they got out of the
 6 shower and dried themselves off with a towel. While still standing, Defendant
 7 performed oral sex on the boys again. After Defendant spent another ten minutes
 8 performing oral sex on the boys, he requested that John Doe 1 and John Doe 3 stroke
 9 his penis. Both boys complied with Defendant's request. When Defendant finished
 10 performing oral sex on the boys for the second time, he lay down on the bed and told
 11 each of the boys to sit on him. While Defendant reclined on his back, John Doe 2
 12 walked over and got onto the bed. Defendant picked John Doe 2 up underneath his
 13 arms and sat him in a position which allowed Defendant to again perform oral sex on
 14 the boy. Defendant performed oral sex on him for approximately fifteen minutes until
 15 John Doe 2 ejaculated in Defendant's mouth. Defendant swallowed John Doe 2's
 16 ejaculate, and then performed oral sex on John Doe 1 and John Doe 3 in the same
 17 fashion. While Defendant was performing oral sex with the boys, he instructed the boys
 18 to take photographs of him with his digital camera.

19 Because Defendant was unable to ejaculate, he masturbated until he ejaculated.
 20 After he ejaculated, Defendant smeared his ejaculate on his hand and licked it. At no
 21 time did Defendant use a condom. After Defendant had finished engaging in sexual
 22 conduct with the boys, he gave them approximately \$21 to split among themselves.

23 8. Acceptance of Responsibility. The United States acknowledges that if
 24 Defendant enters a plea of guilty on or before June 11, 2004, Defendant qualifies for an
 25 acceptance of responsibility adjustment pursuant to USSG § 3E1.1(a) and if the offense
 26 level is sixteen (16) or greater, Defendant's total offense level should be decreased by
 27 three (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because Defendant has assisted
 28 the United States by timely notifying the authorities of his intention to plead guilty,

1 thereby permitting the United States to avoid preparing for trial and permitting the Court
2 to allocate its resources efficiently.

3 9. Forfeiture of Contraband. Pursuant to Title 18, United States Code,
4 Section 2253(a), Defendant agrees to forfeit to the United states immediately all of his
5 right, title, and interest in any and all sexually explicit or sexually related material
6 seized from him by the Cambodian National Police in Cambodia.

7 10. Restitution. No claims for restitution have been presented.

8 11. Non-Prosecution of Additional Offenses. As part of this Plea Agreement,
9 and except as otherwise set forth in this paragraph, the United States Attorney's Offices
10 for the Western District of Washington and the Northern District of California agree not
11 to prosecute Defendant for any additional offenses known to them as of the time of this
12 Agreement that are based upon evidence in their possession at this time, or that arise out
13 of the conduct giving rise to this investigation. Further, should another United States
14 Attorney's Office initiate an investigation or prosecution of Defendant related to the
15 sexual exploitation of children occurring before the date of this agreement, the United
16 States Attorney's Office for the Western District of Washington agrees to contact that
17 office and make known its position that no further prosecution of the Defendant should
18 occur. In this regard, Defendant recognizes that the United States has agreed not to
19 prosecute all of the criminal charges that the evidence establishes were committed by
20 Defendant solely because of the promises made by Defendant in this Agreement.

21 Defendant acknowledges and agrees, however, that for purposes of preparing the
22 Presentence Report, the United States Attorney's Office will provide the United States
23 Probation Office with evidence of all relevant conduct committed by Defendant.

24 12. Voluntariness of Plea. Defendant acknowledges that he has entered into
25 this Plea Agreement freely and voluntarily, and that no threats or promises, other than
26 the promises contained in this Plea Agreement, were made to induce Defendant to enter
27 these pleas of guilty.

28 13. Statute of Limitations. In the event that this Agreement is not accepted by

1 the Court for any reason, or Defendant has breached any of the terms of this Plea
2 Agreement, the statute of limitations shall be deemed to have been tolled from the date
3 of the Plea Agreement to: (1) 30 days following the date of non-acceptance of the Plea
4 Agreement by the Court; or (2) 30 days following the date on which a breach of the Plea
5 Agreement by Defendant is discovered by the United States Attorney's Office.

6 14. Post-Plea Conduct. Defendant understands that the terms of this Plea
7 Agreement apply only to conduct that occurred prior to the execution of this Agreement.
8 If, after the date of this Agreement, Defendant should engage in conduct that would
9 warrant an increase in Defendant's adjusted offense level or justify an upward departure
10 under the Sentencing Guidelines (examples of which include, but are not limited to:
11 obstruction of justice, failure to appear for a court proceeding, criminal conduct while
12 pending sentencing, and false statements to law enforcement agents, the probation
13 officer or Court), the United States is free under this Agreement to seek a sentencing
14 enhancement or upward departure based on that conduct.

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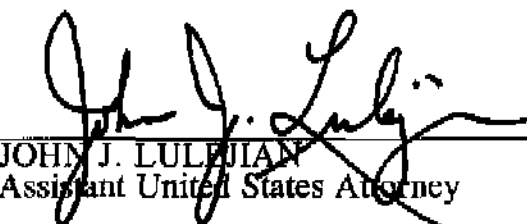
1 15. Completeness of Agreement. The United States and Defendant
2 acknowledge that these terms constitute the entire Plea Agreement between the parties.
3 This Agreement only binds the United States Attorney's Offices for the Western District
4 of Washington and the Northern District of California. It does not bind any other
5 United States Attorney's Office or any other office or agency of the United States, or
6 any state or local prosecutor.

7 Dated this 23rd day of June, 2004.

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10 
11 GARY EVANS JACKSON
12 Defendant

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14 
15 BRIAN A. TSUCHIDA
16 Attorney for Defendant

17 
18 SUSAN M. HARRISON
19 Assistant United States Attorney

20 
21 JOHN J. LULEJIAN
22 Assistant United States Attorney

23
24
25 
26 SUSAN B. DOHRMANN
27 Assistant United States Attorney
28